



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



238856

REPLY TO THE ATTENTION OF

C-14J

September 7, 2005

Mr. David Carlins
VP of Development
Magellan Development Group
One West Superior, Suite 200
Chicago, Illinois 60610

Ms. Kara Hughes
Site Project Manager
Lowenberg & Associates, Inc.
One West Superior
Suite 200
Chicago, Illinois 60610

Ms. Barbara Magel
Karaganis, White & Magel Ltd.
414 North Orleans Street
Suite 810
Chicago, Illinois 60610

Mr. Sean Bezark
Greenberg Traurig, L.L.P.
77 West Wacker Drive
Suite 2500
Chicago, Illinois 60601

Re: Demand for Stipulated Penalties at Lakeshore East and Notification of Change of
Individual for Required Notices and Submissions.

Dear Mr. Carlins, Ms. Hughes, Ms. Magel, and Mr. Bezark:

This letter serves as a demand for stipulated penalties in the amount of \$400.00 for failure to timely contact U.S. EPA in accordance with the explicit procedures set forth paragraph 30 of the CERCLA Section 122(a) and (h)(1) Agreement for Past Response Costs, CERCLA Docket No. V-W-05-C-817 ("Agreement"), between U.S. EPA and the Illinois Center Plaza Venture, LaSalle Bank National Association as successor Trustee to American National Bank and Trust

Company of Chicago (trust numbers 46968, 56375, 45251, 45250, 115 883-08), PepsiAmericas, Inc., Mid-America Improvement Corporation, Illinois Center Corporation, Metropolitan Structures, Lakeshore East, LLC, Lakeshore Links, LLC, Lakeshore East Parcel P, LLC, and Lakeshore East Development Group, Ltd. ("Settling Parties"). These notification procedures set forth in the Agreement as well as in the Fourth Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Lakeshore East are part of the institutional controls for this property that have been recorded at the Cook County Recorder of Deeds as document # 0505632012 and have been determined necessary to protect human health and the environment. As you are aware, paragraph 30 of the Agreement, requires that the Owner Settling Parties, Lakeshore East, LLC, Lakeshore Links, LLC, Lakeshore East Parcel P, LLC, and Lakeshore East Development Group, Ltd., their contractors, representatives or agents provide telephonic and written notice to U.S. EPA 48 hours prior to commencing work in areas that disturbs, exposes or intrudes upon the soils below 18 inches from the highest contour point in the former Boat Slips depicted on Exhibit B to the Agreement.

On September 1, 2005, at 9:50 a.m. Kara Hughes sent an electronic mail message to Verneta Simon, U.S. EPA's OSC for the Lakeshore East Site, informing her that excavation in the former slip area at the Lakeshore East development would begin that same day. A copy of that electronic mail message is enclosed. This was the only notification that U.S. EPA received and such notification does not comply with the terms of the Agreement. Please provide payment in accordance with paragraph 16 of the Agreement.

Your compliance with the notification provision in Paragraph 30 is critical to the U.S. EPA's ability to protect human health and the environment and conduct appropriate oversight of such work. As a result of your failure to abide by the terms of the Agreement, U.S. EPA was unable to perform any oversight of the work conducted to assure that the work you performed complied with the Agreement. In the future, to comply by the terms of the Agreement, at least 48 hours before work the day work begins, you must telephone U.S. EPA and provide a voice message and also send a written message. Your compliance with these key terms of the Agreement is essential to ensure that public health and the environment are protected. As paragraph 41 of the Agreement indicates, you should provide notification to the following people at the addresses provided: Cathleen Martwick (312-886-7166) or Mary Fulghum (312-886-4683), Verneta Simon (312-886-3601) or Gene Jablonowski (312-886-4591), Larry Jensen (312-886-5026) and Vanessa Mbogo. This letter also serves as notification pursuant to paragraph 41 of the Agreement that U.S. EPA is substituting Gene Jablonowski, Remedial Project Manager, U.S. EPA (SR-6J), 77 W. Jackson Blvd, Chicago, Illinois 60604 for Fred Micke, On-Scene Coordinator.

If you have any questions please contact me at 312-886-7166.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathleen R. Martwick".

Cathleen R. Martwick
Associate Regional Counsel

enc.

cc: Mary Fulghum
Verneta Simon
Gene Jablonowski
Larry Jensen
Kimberly Worthington, Chicago Department of Environment w/enc.